

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

PAYNE FAMILY HOMES, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:17-CV-02912 JAR
	)	
SURVANT AIR SYSTEMS, INC., et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

On October 30, 2017, Plaintiff Payne Family Homes, LLC filed a Complaint for Interpleader in the Circuit Court of Saint Louis County, Missouri seeking a determination as to which portion, if any, of the funds Plaintiff owes to Defendant Servant Air Systems, Inc. are to be allocated and distributed to each of the named Defendants. (Doc. No. 2) Defendant United States removed the action to this Court on December 21, 2017. (Doc. No. 1) On March 15, 2018, this Court granted Plaintiff's petition to interplead disputed funds in the amount of \$155,413.49 into the Registry of the Court and discharged Plaintiff from any further liability in this case. (Doc. Nos. 26, 27, 28, 29) This matter is now before the Court on the Joint Motion by United States, Capitol Group, Inc., and the Funds<sup>1</sup> to Determine Priority (Doc. No. 55) and the United States' Motion for Summary Judgment (Doc. No. 57).

In their joint motion, the United States, Capitol Group, Inc., and the Funds stipulate and move for entry of an order determining that the United States' federal tax liens have priority over

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<sup>1</sup> "The funds" collectively refers to the following defendants: the Trustees of the Sheet Metal Local 36 Welfare Fund, Trustees of the Sheet Metal Local 36 Pension Fund, Trustees of the Sheet Metal Local 36 Vacation Fund, Trustees of the St. Louis Sheet Metal Joint Apprenticeship and Training Fund, Trustees of the Sheet Metal Workers' Local 36 401(k) Plan, Trustees of the St. Louis Metal Working Industry Fund (MIF), and the International Association of Sheet Metal, Air, Rail, and Transportation Workers ("S.M.A.R.T.") Local Union No. 36.

the claims of Capitol Group, Inc. and the Funds. Because Defendant Trane U.S. also claims an interest in the interpled funds, the Court directed Trane to show cause in writing why the Joint Motion to Determine Priority should not be granted. (Doc. No. 56) Trane does not oppose the entry of an order determining that the United States federal tax liens have priority over the claims of Capital Group Inc., and the Funds; however, Trane does not admit or agree that the United States federal tax lien has a priority claim over its claims. (Doc. No. 58) There being no objection to the Joint Motion to Determine Priority, the Court will grant the motion.

In light of the stipulation between the United States, Capitol Group, Inc., and the Funds, and the Court's order entered herein determining priority, there is no material fact in dispute as to the priority of the United States' federal tax liens over the claims of Capitol Group, Inc., and the Funds. The Court will, therefore, grant the United States' motion for summary judgment as to Defendants Capitol Group, Inc. and the Funds. The Court will defer entering a judgment pending its ruling on the remaining defendant, Trane U.S. The United States' motion for summary judgment was filed on September 4, 2018. Pursuant to this Court's Local Rules, a party opposing a motion for summary judgment under Fed. R. Civ. P. 56 shall file a memorandum and any appropriate documentary evidence twenty-one (21) days after being served with the motion. E.D. Mo. L.R. 4.01(F). Trane U.S.'s response was due on September 25, 2018; however, because of possible confusion, the Court will extend the deadline for filing a response to Friday, October 5, 2018.

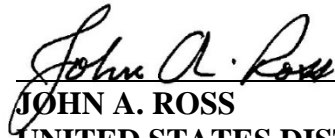
Accordingly,

**IT IS HEREBY ORDERED** that the Joint Motion by United States, Capitol Group, Inc., and the Funds to Determine Priority [55] is **GRANTED**.

**IT IS FURTHER ORDERED** that the United States' Motion for Summary Judgment [57] is **GRANTED** as to Defendants Capitol Group, Inc. and the Funds.

**IT IS FINALLY ORDERED** that Defendant Trane U.S., Inc., shall file its response to the United States' Motion for Summary Judgment **no later than Friday, October 5, 2018**. Any reply shall be filed **no later than Monday, October 15, 2018**.

Dated this 26th day of September, 2018.

  
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**JOHN A. ROSS**  
**UNITED STATES DISTRICT JUDGE**